

STATE OF WEST VIRGINIA
THIRTEENTH JUDICIAL CIRCUIT
OFFICE OF THE COURT MONITOR
STATE CAPITOL COMPLEX
BUILDING 6, ROOM 850
CHARLESTON, WEST VIRGINIA 25305



LOUIS H. BLOOM
JUDGE

DAVID G. SUDBECK
COURT MONITOR

MEETING OF THE PARTIES

In E.H., et al., v. Khan Matin, et al.

TUESDAY, MARCH 10, 2015

DRAFT MINUTES

PRESENT: David G. Sudbeck, Kyle Blackburn, Vickie Jones, Christopher Dodrill, Cynthia Beane, Kim Stitzinger Jones, Teresa Brown, Regina Mayne, Lydia Milnes, Karen Villanueva-Matkovich, Vaughn Sizemore, Lindsay McIntosh, Jennifer Rutherford, Bill Hicks

INVITED GUESTS: David Sudbeck invited staff from Legal Aid of West Virginia to discuss the employment of a medical consultant. Sharoon Reed, Bill Albert, Jody Gardill, Teri Stone.

I. COURT MONITOR REPORT

David Sudbeck started the meeting by mentioning there were no new grievances filed since the last Meeting of the Parties to report on. To start the discussion of hiring the court ordered medical professional David Sudbeck asked Bill Albert to go over the report Legal Aid of West Virginia conducted. Bill Albert discussed the best way to conduct the PRN psychotropic medication administration to the patients, would be to look at each of the patients charts and work with the privacy officers. The Legal Aid of West Virginia staff developed an audit tool for reviewing the administration of the medication. Each patient would receive an anonymous ID, a look into each unit, length of stay, diagnosis, intervention prior to medication, the type of PRN psychotropic medicine administered, date/time(s) PRN was administered, unit acuity at time of PRN and documented context of use of PRN. Legal Aid of West Virginia is continuing to work on this audit and at the time that the report was completed there were 72 patients reviewed. David Sudbeck inquired as to how the Parties will secure the necessary funds to hire this medical professional. Karen Villanueva-Matkovich said it is an unfunded mandate therefore discussions with the Governor's office will need to occur. David Sudbeck stated that the judge was very clear that he didn't want this to be a hardship on DHHR Karen Villanueva-Matkovich said the cost could run from \$30,000 - \$50,000.

It was made clear that it has to be a physician/psychiatrist M.D. Karen Villanueva-Matkovich mentioned expanding the search to OH, KY, VA, PA or in state that could lower the cost. David Sudbeck asked Karen Villanueva-Matkovich, Regina Mayne, Teresa Brown, Lydia Milnes to bring some names of possible candidates for the medical professional to his attention by March 31, 2015.

II. BHHF REPORT

Vickie Jones mentioned that they are in the second rounds of interviews for the CEO at Sharpe Hospital. Lydia Milnes asked DHHR to provide documents showing current direct care vacancies, and numbers of contract employees and temporary employees for each hospital, Vickie Jones stated she would send the information once she has received it. Vickie Jones had no other topics to report on.

III. PETITIONER REPORT

During Petitioner's report, Lydia Milnes stated that the Legal Aid of West Virginia hospital patient advocates continue to have trouble gaining timely access to records when conducting abuse and neglect investigations. DHHR's attorney, Chris Dodrill, stated that he believed West Virginia Advocates should be conducting the abuse and neglect investigations instead of Legal Aid patient advocates. Lydia stated that, under West Virginia state law and the policies and procedures that have been followed at the hospitals for years, the contracted patient advocates, who are currently provided through Legal Aid, are required to engage in abuse and neglect investigations, and thus need immediate access to patient records in those situations in order to meet the short time lines required for those investigations. Karen Villanueva-Matkovich stated that meetings were being held with Legal Aid to address specific instances of concern, and further stated that DHHR was not required to continue to contract with Legal Aid to provide advocacy services in the future.

IV. BMS REPORT

Cindy Beane mentioned during the TBI Waiver Update that there were 52 active members living at home in their community. And in July the applications will be changing, also they are lowering the age limit. Cindy Beane informed the group that the two Managed Care Workgroups process and quality are continuing to meet frequently.

Cindy also distributed the current TBI waiver report [copy attached below]

Next Meeting: Tuesday, April 28, 2015
10:00 a.m.-12:00 noon
One Davis Square
Conference Room 134 Charleston, WV 25301

**WV Traumatic Brain Injury (TBI) Waiver Program
Implementation through-February 2015**

MNER Summary: Since February 1, 2012, the Administrative Services Organization (ASO) has received, processed and/or made initial determinations on two hundred and four (204) Medical Necessity Evaluation Request Forms (MNER)/applications.

- ❖ Of those two hundred and four (204) applications (submitted MNER):
 - 20 applications were closed - no evidence of a TBI
 - 25 applications were withdrawn
 - 3 pending assessments
 - **156 applicants received medical eligibility determination assessments**
 - 33 applicants did not meet medical eligibility
 - 123 applicants were considered medically eligible based on their PAS and Rancho Los Amigos scores
 - 16 applicants were denied financial eligibility
 - 26 applicants withdrew their case after medical eligibility was determined
 - 8 applicants are awaiting financial eligibility
 - 2 applicants deceased prior to notification of medical eligibility
 - 13 members have discontinued their enrollment since 2/2012
 - 3 member deceased
 - 52 Active Members in February 2015

# MNER Applications Received Per Month							
2012	# MNER Received	2013	# MNER Received	2014	# MNER Received	2015	# MNER Received
January	N/A	January	6	January	9	January	5
February	4	February	5	February	6	February	7
March	2	March	10	March	4	March	
April	4	April	4	April	8	April	
May	3	May	9	May	9	May	
June	1	June	4	June	7	June	
July	2	July	10	July	6	July	
August	5	August	10	August	2	August	
September	7	September	5	September	7	September	
October	1	October	10	October	8	October	
November	3	November	5	November	4	November	
December	2	December	4	December	6	December	
2012 Total	34	2013 Total	82	2014 Total	76	2015 Total	12
Total since program implementation February 2012							204

Outreach Efforts Summary: In January 2012, the ASO initially sent emails to all existing Aged and Disabled Waiver Homemaker Agencies, Case Management Agencies, I/DD Waiver Providers and Personal Care Providers. In early February 2012, all applicable referral sources including Nursing Homes, Hospitals and Licensed Rehabilitation Centers were emailed. This correspondence announced the TBI Waiver Program, outlined eligibility requirements and supplied copies of the application (MNER) form (*these emails are not included in 1487

Email contacts indicated below).

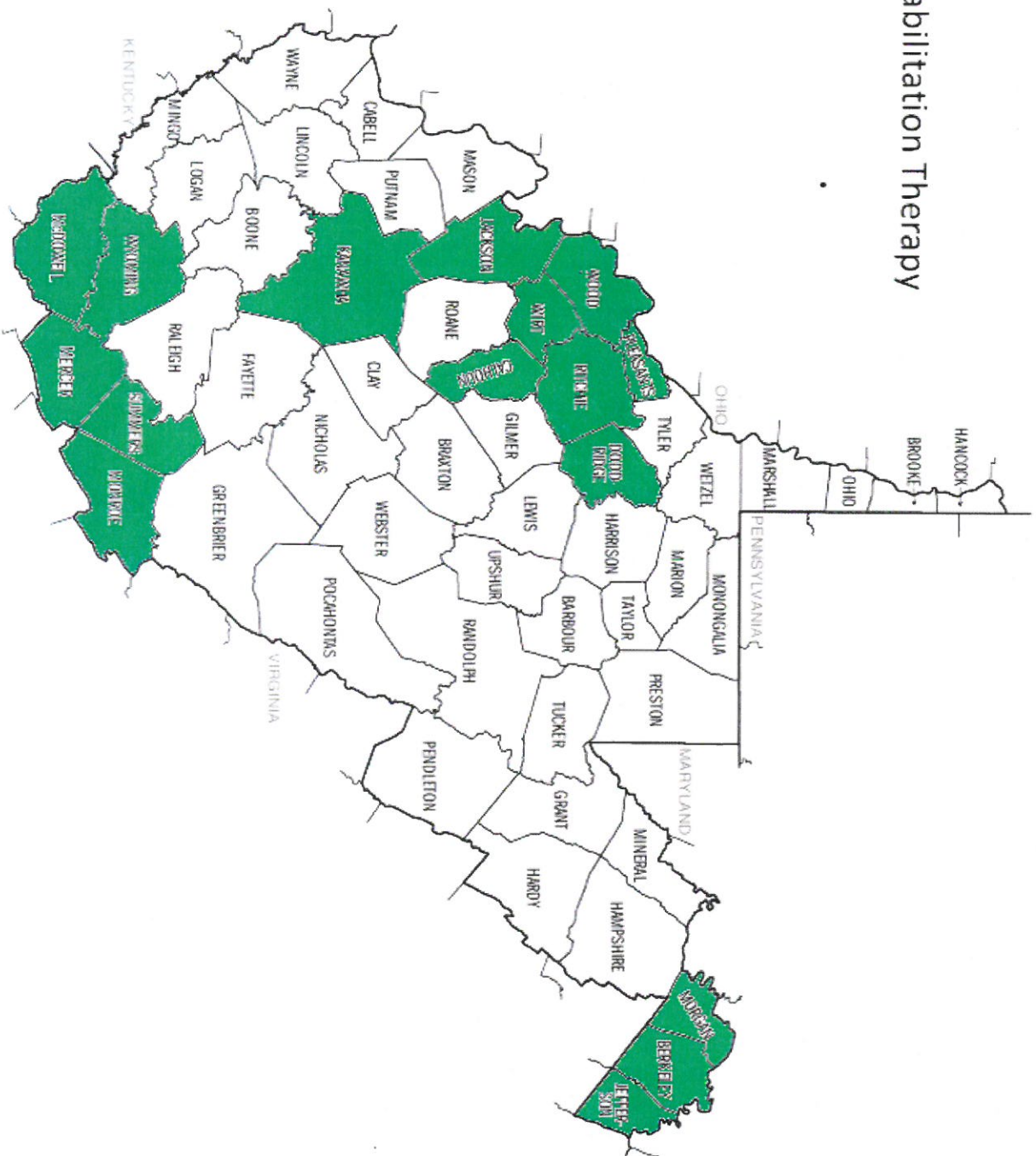
Since March of 2012, ASO staff has conducted statewide outreach efforts to include: scheduled face-to-face meetings within the facilities, presentations at local and statewide settings and meetings with the directors of the Aging and Disability Resource Centers.

Additionally, the ASO offers/provides training and technical assistance to the twenty (20) enrolled provider agencies. Training topics include the Medicaid requirements for covered services (Case Management, Personal Attendant Services and Cognitive Rehabilitation Services) and general information about supporting individuals with TBI.

The ASO targets outreach for each agency selected to provide services for enrolled members. Outreach focuses on providing guidance in completing the financial eligibility process and compliance with Medicaid forms. Additionally, the ASO provides technical assistance to resolve specific member needs.

Types and Numbers of Outreach Efforts Made for the WV TBI Waiver Program	
Type of Outreach	# Outreach Efforts
General Outreach	
Email	*1487
Phone	1151
Face-to-Face	514
Presentations/Outreach (ex. WV NASW Conference, local DHHR)	59
For Enrolled Providers	
Training-Webinar	33
Face-to-Face Technical Assistance	55
Phone Technical Assistance	417
Total	3,716

Cognitive Rehabilitation Therapy



[illegible]

Case Management Agency

